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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re L.D., a Person Coming Under the
Juvenile Court Law.

H045721
(Santa Clara County
Super. Ct. No. 16JD024199)

SANTA CLARA COUNTY
DEPARTMENT OF FAMILY &
CHILDREN'S SERVICES

Plaintiff and Respondent,

v.

J.D., et al.,

Defendants and Appellants.

BY THE COURT:¹

I. PROCEDURAL BACKGROUND²

Mother J.D. and Father P.M. appeal an order entered pursuant to Welfare and Institutions Code section 366.26 terminating their parental rights over two-year-old L.D. On appeal Mother argues only that the juvenile court erred in finding that the notice requirements of the Indian Child Welfare Act (ICWA) had been satisfied. She contends that the ICWA notices sent by the Santa Clara County Department of Family and Children's Services (Department) were deficient because they omitted necessary

¹ Greenwood, P.J., Premo, J., and Elia J. participated in this decision.

² Because the respondent concedes the issue on appeal, a detailed factual summary has not been provided as it is not necessary for the disposition of this case.

information that could have ascertained with reasonable diligence. Father joins in Mother's argument. The Department concedes the issue. Pursuant to the request of the parties, we will conditionally reverse and remand the case for the limited purpose of complying with the notice requirement of the ICWA.

II. DISCUSSION

At the outset of the dependency proceeding, Mother reported possible Indian ancestry in the Ohlone, Apache, Navajo, and Cherokee tribes. On November 14, 2016, the maternal grandfather reported to the social worker that he does not have Navajo ancestry but has Apache and Yaqui ancestry. The record reveals that at the outset of the proceeding a social worker took some initial, but incomplete, information regarding Indian ancestry from Mother. However, the record is silent as to any additional efforts undertaken by the Department to supplement this information with facts necessary for a complete ICWA notice.

The Department mailed notice to seventeen tribes on November 17, 2016. The notice prepared and mailed by the Department omitted significant important information that could have been obtained with reasonable diligence, including, but not limited to the child's place of birth, the correct spelling of the family surname, Mother's former addresses and place of birth, maternal grandmother's and grandfather's tribal membership, addresses, known names and place of birth. Very little information was provided about the great-grandparents. All but two, the Colorado River Indian Tribe and the White Mountain Apache Tribe, responded that, based on the information received, L.D. was not eligible for enrollment. On March 29, 2017, the court found that notice had been sufficient and that the ICWA did not apply.

In a letter brief to this court, the Department concedes that the ICWA notice prepared by the Department was insufficient. The Department requests that this case be conditionally reversed and remanded for the limited purpose of complying with the notice requirements of the ICWA. (See *In re E.H.* (2018) 26 Cal.App.5th 1058, 1075-1076; *In*

re K.R. (2018) 20 Ca1.App.5th 701, 709 [conditionally reversing order terminating parental rights and remanding for the limited purpose of compliance with ICWA].)

We find that the trial court erred in finding the November 17, 2016 notice satisfied ICWA's notice requirements and that the ICWA did not apply. Before the court can determine whether the ICWA applies, the Department must exercise due diligence to gather additional information from the child's family members about their vital information and send a new notice pursuant to ICWA that substantially complies with its notice requirements.

III. DISPOSITION

The order terminating parental rights is conditionally reversed. The matter is remanded for the limited purpose of complying with the notice requirement of the ICWA. If upon sufficient compliance with the notice requirements of the ICWA the court again finds that the ICWA does not apply, the court may reinstate its prior order terminating parental rights without the need for further proceedings.